

FILED

9:02 cv-03036-SB Date Filed 09/16/02 Entry Number 1 Page 1 of 5

PETITION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT

AO 243 (Rev. 2/95)

SENTENCE BY A PERSON IN FEDERAL CUSTODY

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SEP 16 2002

UNITED STATES DISTRICT COURT

District

South Carolina

LARRY W. PROPPES, CLERK
CHARLESTON, SC

Prisoner No.

90543-071

Case No.

9:00-517-1

FILED

Place of Confinement

CHS/IR FCI

CHS/IR New York

9:00-517-1

SEP 16 2002

UNITED STATES OF AMERICA

v. Stanton deferes Allaben

LARRY W. PROPPES, CLERK
CHARLESTON, SC

(name under which convicted)

MOTION

1. Name and location of court which entered the judgment of conviction under attack Federal District Court of South Carolina (Charleston, South Carolina)
2. Date of judgment of conviction September 27, 2001
3. Length of sentence 70 months
4. Nature of offense involved (all counts) USC Title 18 2252 A (ASB)
8 counts

5. What was your plea? (Check one)

- (a) Not guilty ☐
(b) Guilty ☒
(c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details:

6. If you pleaded not guilty, what kind of trial did you have? (Check one)

- (a) Jury ☐
(b) Judge only ☐

7. Did you testify at the trial?

Yes ☐ No ☒ NA

8. Did you appeal from the judgment of conviction?

Yes ☐ No ☒

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9. If you did appeal, answer the following:

(a) Name of court _____

(b) Result _____

(c) Date of result _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result _____

(6) Date of result _____

(b) As to any second petition, application or motion give the same information:

(1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

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- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (h) Denial of right of appeal.

A. Ground one: Three months of time served in S.C. state prison
for the same crime have not been credited to the federal
sentence.

Supporting FACTS (state briefly without citing cases or law)

Petitioner was sentenced 1/31/01 by a S.C. state court for a charge
from the same crime. The S.C. court was to run concurrent with
the federal sentence of 4/27/01. US Marshals refused to transport
petitioner to a US Det Facility as petitioner was sent to S.C.
Dept. of Corrections. State sentence was changed 3 months later to
life sentence. Credit should be given petitioner.

B. Ground two:

Petitioner has been denied early release grant of the SEC hearing
program.

Supporting FACTS (state briefly without citing cases or law)

Petitioner did not have a
prior conviction for child sexual abuse. Petitioner argues that his
conduct was not multiple sexual abuse offenses committed upon
children. Petitioner asks the court to order the DOC to
grant eligibility for early release benefit.

C. Ground three:

Supporting FACTS (state briefly without citing cases or law)

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D. Ground four: _____

Supporting FACTS (state *briefly* without citing cases or law) _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: _____

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes ☐No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

(a) At preliminary hearing _____

(b) At arraignment and plea

J. Robert Lake, AFFD 20. Dr. 876
Charleston, South Carolina 29405

(c) At trial _____

(d) At sentencing

J. Robert Lake, AFFD 20. Dr. 876
Charleston, South Carolina 29405

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(e) On appeal _____

(f) In any post-conviction proceeding _____

(g) On appeal from any adverse ruling in a post-conviction proceeding _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☐

Wherefore, movant prays that the Court grant petitioner relief to which he or she may be entitled in this proceeding.

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

September 9, 2002
(Date)

Sharon D. Albin
Signature of Movant